

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FORD MOTOR CREDIT COMPANY and FORD
CREDIT TITLING TRUST,

Plaintiffs,

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

- against -

2:05-cv-4807 (DRH) (ARL)

JOHN J. MEEHAN and MATTHEW J.
MEEHAN,

Defendants.

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HURLEY, Senior District Judge:

Presently before the Court is the Report and Recommendation of Magistrate Judge Arlene R. Lindsay, dated November 2, 2021 (the “R&R” [DE 67]), recommending the Court dismiss this action *sua sponte* (i) against Defendant John J. Meehan for failure to comply with Federal Rule of Civil Procedure 25(a)(1) and (ii) against Defendant Matthew J. Meehan pursuant to representations made in Plaintiffs’ counsel’s letter dated April 14, 2008, [DE 38].

As to Defendant John J. Meehan, Judge Lindsay noted that his counsel served a notice of his death on June 9, 2011. [DE 66]. Judge Lindsay then recited Rule 25(a)(1), which reads:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a)(1). Judge Lindsay observed, “Here, the statement of death was served in 2011 and no motion for substitution was ever made.” R&R at 3. Concluding

the ninety (90) day time period to make such a motion expired, Judge Lindsay recommended the Court dismiss the case against John J. Meehan pursuant to Rule 25(a)(1).

As to Defendant Matthew J. Meehan, Judge Lindsay described Plaintiffs' counsel's April 14, 2008 letter notifying the Court of their intention to "file a notice of dismissal without prejudice pursuant to [Federal Rule of Civil Procedure] 41(a) or move to dismiss without prejudice" thereunder. R&R at 2 (citing [DE 38]). Judge Lindsay then recommended dismissing all claims against Matthew J. Meehan "in accordance with the representations made in counsel's letter." *Id.* at 3.

More than fourteen (14) days have passed since service of the R&R and no objections have been filed. Pursuant to 28 U.S.C. § 636(b) and Federal Rule Civil Procedure 72, this Court has reviewed the R&R for clear error. Having found none, the Court concurs in the R&R's reasoning and result. Accordingly,

IT IS HEREBY ORDERED THAT this action is dismissed (i) against Defendant John J. Meehan pursuant to Rule 25(a)(1) and (ii) against Matthew J. Meehan pursuant to the letter dated April 14, 2008.

As all Defendants have been dismissed, the Clerk of Court is directed to terminate the action. The Clerk of Court is directed to mail a copy of this Order, Judge Lindsay's R&R, and the docket sheet to

John M. Flannery
Regional Managing Partner
Wilson, Elser, Moskowitz, Edelman & Dicker LLP
1133 Westchester Avenue
White Plains, NY 10604

SO ORDERED.

Dated: Central Islip, New York
April 8, 2022

s/ Denis R. Hurley
Denis R. Hurley
United States District Judge